

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Civil Action No.1:20-cv-260

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VICTORIA PETERSON,	)	
Plaintiff,	)	
v.	)	<u>ANSWER OF DEFENDANT</u>
NORTH CAROLINA STATE BOARD OF	)	<u>DCBE TO COMPLAINT</u>
ELECTIONS, DURHAM COUNTY BOARD	)	<u>FILED</u>
ALEJANDRA JAVIERA CABALLERO	)	<u>BY PLAINTIFF</u>
Defendants.	)	<u>VICTORIA PETERSON</u>
	)	
	)	

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**NOW COMES** Defendant, Durham County Board of Elections (DCBE), by and through, Senior Assistant County Attorney, Willie S. Darby, and pursuant to Rules 7 and 8 of the Federal Rules of Civil Procedure, hereby responds to the “subject headings” as delineated by Plaintiff in her Complaint as follows:

**Jurisdiction:** Defendant, Durham County Board of Elections (DCBE) denies jurisdiction of the Middle District Court of North Carolina, but otherwise admits that Plaintiff lives in Durham, North Carolina.

**Federal Question:** Defendant, DCBE, admits that Plaintiff has identified Amendment 14: Section 1, Amendment 15: Section 1, of the United States Constitution and Article VI: Section 1 of the North Carolina Constitution, but denies that she has alleged or stated any allegations against Defendant, DCBE.

**Main Issue:** Defendant, DCBE, admits that Defendant Caballero ran for Durham City Council in 2019. Defendant, DCBE, lacks sufficient knowledge to either admit or deny the other allegations identified in the **Main Issue** by Plaintiff.

**Who am I?**: Defendant, DCBE, admits the allegations as stated herein by Plaintiff.

**Issue:** Defendant, DCBE, admits that Plaintiff was a candidate for the Durham City Council in the October 8, 2019 Municipal At-large Primary Election and that the six contestants who amassed the greatest number of votes would advance to the November General Election and all other allegations contained therein are mere conclusions of facts or law and not in need of a response.

**What did the Durham County Board of Election do about my concerns about Ms.**

**Alejandra Javiera Caballero?**: Defendant, DCBE, makes a general admission to the allegations as contained herein, but states further that Plaintiff did not file a timely challenge to Ms. Caballero's candidacy within 10 days of the filing period ending, as required by law.

**Why I requested a preliminary hearing.:** Defendant, DCBE, states that the statements made herein are mere conclusions of the Plaintiff and does not require an admission or denial from this Defendant. If so, DCBE, enters a general denial of the allegations, if any, contain therein.

**How did the North Carolina State Board of Elections handle my Petition and Preliminary**

**Hearing?**: Defendant, DCBE, states that the statements or allegations contained herein are to the NCSBE and does not require a response of Defendant, DCBE. Where it is deemed that DCBE should respond it hereby enters a generally denial all the statements or allegations contained therein.

**North Carolina Superior Court (ORDER OF DISMISSAL):** Defendant, DCBE, is without sufficient knowledge to either admit or deny the statements, allegations, or conclusions mentioned herein.

**Punitive Damages:** Defendant, DCBE, hereby denies that the Plaintiff is entitled to Punitive Damages. In North Carolina such damages are only awarded in cases where the actions of the

Defendant were intentional and highly immoral, or extremely reckless. Plaintiff has failed to alleges any facts that would entitle her to Punitive Damages from Defendant, DCBE.

**Compensatory Damages:** Defendant, DCBE, hereby denies that Plaintiff is entitled to any amount of Compensatory Damages and has failed to allege sufficiently any facts which would entitle her to Compensatory Damages from Defendant, DCBE.

**HAVING FULLY RESPONDED TO THE ALLEGATIONS, STATEMENTS and CONCLUSIONS OF THE PLAINTIFF, DEFENDANT, DCBE, HEREBY CLAIMS AS A FURTHER DEFENSE THE FOLLOWING:**

**AFFIRMATIVE DEFENSES**

**First Affirmative Defense**

The Complaint fails to state a claim upon which relief may be granted.

**Second Affirmative Defense**

The Court is without subject matter jurisdiction.

**WHEREFORE** the Defendant, DCBE, respectfully request that the Court dismiss all claims of the Plaintiff and deny here the relief sought by the Complaint.

This the 24<sup>th</sup> day of August, 2020.

**DURHAM COUNTY ATTORNEY'S OFFICE**

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